

105TH CONGRESS  
2D SESSION

# H. R. 4349

To amend the Internal Revenue Code of 1986 to provide for an exception from penalty tax and exclusion from income for certain amounts withdrawn from certain retirement plans for qualified long-term care insurance and a credit for taxpayers with certain persons requiring custodial care in their households.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1998

Mr. SMITH of New Jersey (for himself, Mr. ENGLISH of Pennsylvania, Mr. PAUL, Mr. ENSIGN, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for an exception from penalty tax and exclusion from income for certain amounts withdrawn from certain retirement plans for qualified long-term care insurance and a credit for taxpayers with certain persons requiring custodial care in their households.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Long-Term Care Advancement Act of 1998”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-  
 2 wise expressly provided, whenever in this Act an amend-  
 3 ment or repeal is expressed in terms of an amendment  
 4 to, or repeal of, a section or other provision, the reference  
 5 shall be considered to be made to a section or other provi-  
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. EXCEPTION FROM PENALTY TAX AND EXCLUSION**  
 8 **FROM INCOME FOR AMOUNTS WITHDRAWN**  
 9 **FROM CERTAIN RETIREMENT PLANS FOR**  
 10 **QUALIFIED LONG-TERM CARE INSURANCE.**

11 (a) EXCEPTION FROM PENALTY TAX.—Paragraph  
 12 (2) of section 72(t) (relating to 10-percent additional tax  
 13 on early distributions from qualified retirement plans) is  
 14 amended by adding at the end the following new subpara-  
 15 graph:

16 “(G) PREMIUMS FOR QUALIFIED LONG-  
 17 TERM CARE INSURANCE CONTRACTS.—

18 “(i) IN GENERAL.—Distributions to  
 19 an individual from an individual retirement  
 20 plan, or from amounts attributable to em-  
 21 ployer contributions made pursuant to  
 22 elective deferrals described in subpara-  
 23 graph (A) or (C) of section 402(g)(3), to  
 24 the extent such distributions do not exceed  
 25 the premiums for a qualified long-term

1 care insurance contract for such individual  
2 or the spouse of such individual. In apply-  
3 ing subparagraph (B), such premiums  
4 shall be treated as amounts not paid for  
5 medical care.

6 “(ii) NO DOUBLE BENEFIT.—No de-  
7 duction shall be allowed under section 213  
8 for any amount described in this subpara-  
9 graph unless the taxpayer elects to have  
10 this subparagraph not apply to such  
11 amount.

12 “(iii) QUALIFIED LONG-TERM CARE  
13 INSURANCE CONTRACT.—For purposes of  
14 this subparagraph, the term ‘qualified  
15 long-term care insurance contract’ has the  
16 meaning given such term by section  
17 7702B(b), except that such term includes  
18 only such contracts which are licensed for  
19 sale in the State in which the policy was  
20 purchased.”

21 (b) EXCLUSION FROM INCOME FOR AMOUNTS WITH-  
22 DRAWN FROM CERTAIN PLANS TO PAY LONG-TERM  
23 CARE PREMIUMS.—Part III of subchapter B of chapter  
24 1 (relating to items specifically excluded from gross in-  
25 come) is amended by redesignating section 139 as section

1 140 and by inserting after section 138 the following new  
 2 section:

3 **“SEC. 139. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT**  
 4 **PLANS AND SECTION 401(k) PLANS FOR**  
 5 **LONG-TERM CARE INSURANCE.**

6 “(a) GENERAL RULE.—The amount which would  
 7 (but for this section) be includible in the gross income of  
 8 an individual for the taxable year by reason of distribu-  
 9 tions from any individual retirement plan (within the  
 10 meaning of section 7701(a)(37)) or qualified cash or de-  
 11 ferred arrangement (within the meaning of section  
 12 401(k)) shall be reduced (but not below zero) by the eligi-  
 13 ble long-term care premiums (as defined in section  
 14 213(d)(10)) paid by such individual during such taxable  
 15 year for any qualified long-term care insurance contract  
 16 covering such individual or the spouse of such individual.

17 “(b) SPECIAL RULES FOR SECTION 401(k) PLANS.—

18 “(1) WITHDRAWALS CANNOT EXCEED ELEC-  
 19 TIVE CONTRIBUTIONS UNDER QUALIFIED CASH OR  
 20 DEFERRED ARRANGEMENT.—This section shall not  
 21 apply to any distribution from a qualified cash or  
 22 deferred arrangement (within the meaning of section  
 23 401(k)) to the extent the aggregate amount of such  
 24 distributions for the use described in subsection (a)  
 25 exceeds the aggregate employer contributions made

1       pursuant to the employee’s election under section  
2       401(k)(2).

3               “(2) WITHDRAWALS NOT TO CAUSE DISQUALI-  
4       FICATION.—A plan shall not be treated as failing to  
5       satisfy the requirements of section 401, and an ar-  
6       rangement shall not be treated as failing to be a  
7       qualified cash or deferred arrangement (within the  
8       meaning of section 401(k)), merely because under  
9       the plan or arrangement distributions are permitted  
10      which are excludable from gross income by reason of  
11      this section.

12              “(c) QUALIFIED LONG-TERM CARE INSURANCE CON-  
13     TRACT.—For purposes of this section, the term ‘qualified  
14     long-term care insurance contract’ has the meaning given  
15     such term by section 7702B(b), except that such term in-  
16     cludes only such contracts which are licensed for sale in  
17     the State in which the taxpayer purchased the policy.”

18              (c) DISTRIBUTIONS PERMITTED FROM CERTAIN  
19     PLANS TO PAY LONG-TERM CARE PREMIUMS.—

20              (1) Section 401(k)(2)(B)(i) is amended by  
21      striking “or” at the end of subclause (III), by strik-  
22      ing “and” at the end of subclause (IV) and inserting  
23      “or”, and by inserting after subclause (IV) the fol-  
24      lowing new subclause:

1                   “(V) the date distributions for  
2                   premiums for a long-term care insur-  
3                   ance contract (as defined in section  
4                   139(c)) for coverage of such individ-  
5                   ual or the spouse of such individual  
6                   are made, and”.

7           (2) Section 403(b)(11) is amended by striking  
8           “or” at the end of subparagraph (A), by striking the  
9           period at the end of subparagraph (B) and inserting  
10          “, or”, and by inserting after subparagraph (B) the  
11          following new subparagraph:

12                   “(C) for the payment of premiums for a  
13                   long-term care insurance contract (as defined in  
14                   section 139(c)) for coverage of the employee or  
15                   the spouse of the employee.”

16          (3) Subparagraph (A) of section 457(d)(1) is  
17          amended by striking “or” at the end of clause (ii),  
18          by striking “and” at the end of clause (iii) and in-  
19          serting “or”, and by inserting after clause (iii) the  
20          following new clause:

21                   “(iv) the date distributions for pre-  
22                   miums for a long-term care insurance con-  
23                   tract (as defined in section 139(c)) for cov-  
24                   erage of such individual or the spouse of  
25                   such individual are made, and”.

1 (d) CONFORMING AMENDMENTS.—

2 (1) Section 72(t)(2)(B) is amended by striking  
3 “subparagraph (A), (C), or (D)” and inserting “sub-  
4 paragraph (A), (C), (D), or (G)”.

5 (2) Section 401(k) is amended by adding at the  
6 end the following new paragraph:

7 “(13) CROSS REFERENCE.—

“**For provision permitting tax-free withdrawals  
for payment of long-term care premiums, see section  
139.**”

8 (3) Section 408(d) is amended by adding at the  
9 end the following new paragraph:

10 “(8) CROSS REFERENCE.—

“**For provision permitting tax-free withdrawals  
from individual retirement plans for payment of  
long-term care premiums, see section 139.**”

11 (4) The table of sections for part III of sub-  
12 chapter B of chapter 1 is amended by striking the  
13 last item and inserting the following new items:

“Sec. 139. Distributions from individual retirement plans and sec-  
tion 401(k) plans for long-term care insurance.

“Sec. 140. Cross references to other Acts.”

14 (e) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to payments and distributions after  
16 December 31, 1997.

1 **SEC. 3. REFUNDABLE CREDIT FOR TAXPAYERS WITH CER-**  
 2 **TAIN PERSONS REQUIRING CUSTODIAL CARE**  
 3 **IN THEIR HOUSEHOLDS.**

4 (a) IN GENERAL.—Subpart C of part IV of sub-  
 5 chapter A of chapter 1 (relating to refundable credits) is  
 6 amended by redesignating section 35 as section 36 and  
 7 by inserting after section 34 the following new section:

8 **“SEC. 35. CREDIT FOR TAXPAYERS WITH CERTAIN PERSONS**  
 9 **REQUIRING CUSTODIAL CARE IN THEIR**  
 10 **HOUSEHOLDS.**

11 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
 12 dividual who maintains a household which includes as a  
 13 member one or more qualified persons, there shall be al-  
 14 lowed as a credit against the tax imposed by this chapter  
 15 for the taxable year an amount equal to \$500 for each  
 16 such person.

17 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
 18 COME.—

19 “(1) IN GENERAL.—The amount of the credit  
 20 allowable under subsection (a) shall be reduced (but  
 21 not below zero) by \$50 for each \$1,000 (or fraction  
 22 thereof) by which the taxpayer’s modified adjusted  
 23 gross income exceeds the threshold amount. For  
 24 purposes of the preceding sentence, the term ‘modi-  
 25 fied adjusted gross income’ means adjusted gross in-



1       come increased by any amount excluded from gross  
2       income under section 911, 931, or 933.

3               “(2) THRESHOLD AMOUNT.—For purposes of  
4       paragraph (1), the term ‘threshold amount’ means—

5               “(A) \$110,000 in the case of a joint re-  
6       turn,

7               “(B) \$75,000 in the case of an individual  
8       who is not married, and

9               “(C) \$55,000 in the case of a married in-  
10      dividual filing a separate return.

11      For purposes of this paragraph, marital status shall  
12      be determined under section 7703.

13               “(c) QUALIFIED PERSON.—For purposes of this sec-  
14      tion, the term ‘qualified person’ means any individual—

15               “(1) who is a father or mother of the taxpayer,  
16      his spouse, or his former spouse or who is an ances-  
17      tor of such a father or mother,

18               “(2) who is a chronically ill individual (as de-  
19      fined in section 7702B(c)(2)),

20               “(3) who has as his principal place of abode for  
21      more than half of the taxable year the home of the  
22      taxpayer, and

23               “(4) whose name and TIN are included on the  
24      taxpayer’s return for the taxable year.

1 For purposes of paragraph (1), a stepfather or stepmother  
 2 shall be treated as a father or mother.

3 “(d) SPECIAL RULES.—For purposes of this section,  
 4 rules similar to the rules of paragraphs (1), (2), (3), and  
 5 (4) of section 21(e) shall apply.

6 “(e) PHASE-IN.—In the case of a taxable year begin-  
 7 ning in a calendar year before 2002, subsection (a) shall  
 8 be applied by substituting the applicable amount deter-  
 9 mined under the following table for the \$500 amount ap-  
 10 pearing in subsection (a):

<b>“If the calendar year is:</b>	<b>The applicable amount is:</b>
1998 .....	\$250
1999 .....	\$350
2000 .....	\$400
2001 .....	\$450.

11 “(f) INFLATION ADJUSTMENT.—In the case of any  
 12 taxable year beginning in a calendar year after 2002, the  
 13 \$500 amount contained in subsection (a) shall be in-  
 14 creased by an amount equal to—

15 “(1) such dollar amount, multiplied by

16 “(2) the cost-of-living adjustment under section  
 17 1(f)(3) for the calendar year in which the taxable  
 18 year begins, determined by substituting ‘calendar  
 19 year 2001’ for ‘calendar year 1992’ in subparagraph  
 20 (B) thereof.

21 If any amount as adjusted under the preceding sentence  
 22 is not a multiple of \$50, such amount shall be rounded  
 23 to the nearest multiple of \$50.”

1       (b) CLERICAL AMENDMENT.—The table of sections  
2 for subpart C of part IV of subchapter A of chapter 1  
3 is amended by striking the last item and inserting the fol-  
4 lowing:

“Sec. 35. Credit for taxpayers with certain persons requiring cus-  
todial care in their households.

“Sec. 36. Overpayments of tax.”

5       (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 1997.

